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May 14, 2015

Via Federal Express

Bridget C. Bohac, Chief Clerk
Texas Commission on Environmental Quality
Office of Chief Clerk, MC-105
12100 Park 35 Circle
Austin, Texas 78753

Re: Application by City of Farmers Branch Camelot Landfill – Denton County Permit
No. 1312A

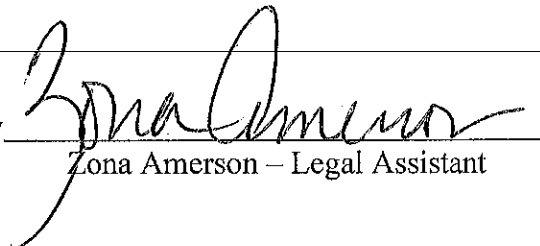
Dear Ms. Bohac:

Enclosed please find an original plus 7 copies of a Motion to Overturn Executive Director's Decision in connection with the above referenced matter.

Should you have any questions or concerns regarding this filing, counsel can be reached at (713) 524-1012.

Sincerely,

BLACKBURN CARTER, P.C.

by 
Zona Amerson – Legal Assistant

cc: Service list

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY
2015 MAY 15 AM 9:57
CHIEF CLERK'S OFFICE

APPLICATION BY
CITY OF FARMERS BRANCH
CAMELOT LANDFILL – DENTON
COUNTY, PERMIT NO. 1312A

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BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY
2015 JAN 15 AM 9:55
CHIEF CLERK'S OFFICE

MOTION TO OVERTURN EXECUTIVE DIRECTOR'S DECISION

TO THE HONORABLE COMMISSIONERS OF THE TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY:

COMES NOW the City of Lewisville, Texas, ("Lewisville"), and in accordance with 30
T.A.C. § 50.139, files this Motion to Overturn the Executive Director's ("ED") Decision to grant
the City of Farmers Branch, ("Applicant" or "City of Farmers Branch") application for a permit
modification. In support thereof the City of Lewisville would show the following:

I. BACKGROUND INFORMATION

A. Current Applications

The ED has issued final approval of the modification application, to the City of Farmers
Branch dated April 24, 2015. The modification would authorize a cell dewatering system as well
as closure and post closure cost estimate revisions at the Camelot Landfill located in the City of
Lewisville, Denton County, Texas, and operating under Municipal Solid Waste Permit No.
1312A. Lewisville's motion to overturn must be received by the Chief Clerk within 23 days
after the date of the notice/letter. Accordingly this motion to overturn is timely as it is filed
within 23 days of the date of the notice/letter.

The City of Farmers Branch has also applied for a Municipal Solid Waste Type I major
permit amendment to expand the Camelot Landfill permit boundary from 350.77 acres to 469.62
acres increasing the landfill both laterally and vertically. This proposed permit amendment is in
the final comment period, and the City of Lewisville has submitted comments and requested a

contested case hearing on the permit amendment application, has asked to be designated as an affected person and be allowed to participate in the contested case hearing as a party to the proceeding.

As discussed in the comments submitted regarding the permit amendment application, the neighborhood is the most basic and essential element of the Lewisville community. It is where citizens live, raise their children and establish the core of community life. The neighborhood provides the starting point for community concerns and action, and an important part of the future vision of Lewisville is built around its neighborhoods. Lewisville is seen as a community that maintains and enhances its neighborhoods providing a family oriented place to live.

The City of Farmers Branch landfill currently exists as does the Waste Management landfill across the river, both located along a waterway that is currently used for recreation, and which is intended to be expanded for recreational use according to land purchases and land use actions by Lewisville. Lewisville has persevered with these landfills for decades but the time has come to end its servitude to the waste of others. This landfill had a specific volumetric longevity by permit and Lewisville has made certain land use plans and purchases based upon that represented capacity limit. It is especially important to this community that the landfill applications for expansion and modifications be scrutinized carefully to protect the citizens and lifestyle of Lewisville.

B. Other Applications

In addition to this permit modification application pending at the Texas Commission on Environmental Quality ("TCEQ"), the City of Farmers Branch submitted two earlier modifications which Lewisville did not oppose. Those modifications were necessary to address leakage of hazardous constituents into the groundwater external to the landfill. Specifically, one

of the modifications was set up to block the movement of contaminants from the landfill into the Trinity River riparian zone (the slurry wall) and the other was designed to remove water from within the older filled cells at the landfill thereby removing the potential for leakage from the interior of the landfill (the leachate collection well system). The currently proposed modification for a cell dewatering system as well as closure and post closure costs estimate revisions have nothing to do with addressing an imminent danger as was the case with these earlier modifications.

Thus, rather than being a requirement to address an emergency health and safety issue, the problem in this latest request for a modification is more about long term structural integrity of the proposed new construction. This modification request is for a new cell that has not yet been filled, in contrast to the situation with the other modifications which involved retroactive fixes on old filled cells. Therefore there is no need to rush here. There is plenty of time to get this problem addressed correctly during the permit amendment process.

II. PERMIT MODIFICATION APPLICATION 1312A

A. Excavation Heaving

As noted above the pending amendment application vertical expansion (1312B) is proposed to occur over the area where the present modification is proposed. The modification is to address and to allow a quick fix of a problem with excavation heaving in the Eagle Ford shale. That is, excavation into the Eagle Ford has resulted in heaving, cracks, fissures, and seeps that require detailed investigation. The problem with this approach is that this portion of the landfill, may offer geologic clues as to the current status of older sections of the landfill that will be covered vertically in the expansion. In other words the problem that has led to this request for a modification may be important as to whether the request for the amendment application should

be granted or not. This new information about the behavior of the Eagle Ford raises a number of issues about important components of the amendment application that require measurement and study, not a single paragraph outlining the problem. Potential geologic evidence regarding the expansion should not be covered up with a modification that doesn't seek substantial information. This landfill modification activity should cease pending a full evidentiary hearing on the safety of the continued expansion of the landfill, given this breach in the Eagle Ford shale which has heretofore been considered impermeable. Based on this information in the modification, the Eagle Ford is clearly not impermeable, a fact with all its implications that will be important in the weighing of the merits of the expansion.

B. Closure and Post Closure Costs

As noted, we also have major concerns about closure and post-closure costs aspects associated with the modification. The issue of seeps in the old landfill must be addressed comprehensively rather than in a modification. The costs of closure and post closure may be inaccurate based on the more thorough and searching information available in the contested case hearing for the permit amendment.

III. TCEQ RESPONSE TO COMMENTS

The TCEQ has provided responses to the comments submitted March 12, 2015, on behalf of the City of Lewisville. Lewisville's comments address the permit modification submitted by the City of Farmers Branch to revise the facility's landfill cell dewatering plan and to update the facility's closure and post closure care estimates. In response to the City of Lewisville's comment that the cell dewatering system should be processed with the major amendment, the TCEQ response is that the cell dewatering system is eligible to be processed as a modification because the proposed activity should not substantially alter the permit conditions or reduce the

capability of the facility to protect human health and environment in accordance with 30 T.A.C. § 305.70(d). Quite the contrary; the basis for the modification is the newly disclosed phenomena of excavation heaving and related, but not investigated, seeps, deep into the Eagle Ford shale. Covering this new problem without fully investigating its lateral extent, depth and effective permeability, as well as related problems is a reduction in environmental protection. Therefore this comment does not respond to the issue raised by the City of Lewisville that this portion of the landfill may offer geologic clues as to the current status of older sections of the landfill that will be covered vertically in the expansion and the opportunity for remediation lost. This is a significant issue regarding the behavior of the Eagle Ford that may require a further measurement and study not a mere paragraph with no data.

In response to the City of Lewisville's comment that there is no need to hurry this modification decision, the ED answers that "expediency is not an element that is required to be considered when determining a requested change is eligible to be processed as a modification." Again this response does not answer the issue that certain pieces of information may be covered up by the proposed cell dewatering system which should be processed or should be studied during the major amendment process. Lewisville is not complaining about expediency but rather about taking advantage of an opportunity to study a problem that underlies and is the basis for the proposed modification. The opportunity to study and fix a problem should not be overlooked.

In response to comment number three which is that the geologic information could be lost regarding Eagle Ford formation that might affect TCEQ's decision on the major amendment application, the ED "relies on representations made in an application that are signed and sealed by a licensed professional engineer." Further information and scrutiny would only add to the

safety of the landfill, and should not be brushed aside by arguing that the proposed revision to the cell dewatering system should not substantially alter the permit conditions or reduce the capability of the facility to protect human health and the environment.

As noted, the City of Lewisville has major concerns with the closure and post closure costs aspects. The issue of seeps in the old landfill is a fundamental problem that must be addressed comprehensively. If in fact the seeps require further remediation, the costs could be significantly higher than that which has been estimated in this modification application.

IV. CONCLUSION

The City of Lewisville respectfully requests the Commission to overturn the Executive Director's approval and issuance of the permit modification allowing the proposed cell dewatering system and closure and post closure costs estimate revisions on Permit Modification No. 1312A. Lewisville respectfully requests that the application for permit modification be consolidated into the City of Farmers Branch pending application for a major amendment for the Camelot Landfill where all of the issues may be reviewed thoroughly.

Respectfully submitted,

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by


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CERTIFICATE OF SERVICE

On this 14th day of May, 2015, the undersigned hereby certifies that a true and correct copy of the foregoing instrument was served on all attorneys/parties of record as indicated below.


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